

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: FOSAMAX PRODUCTS LIABILITY :
LITIGATION :

1:06-MD-1789-JFK

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This Document Relates to: :

ORDER

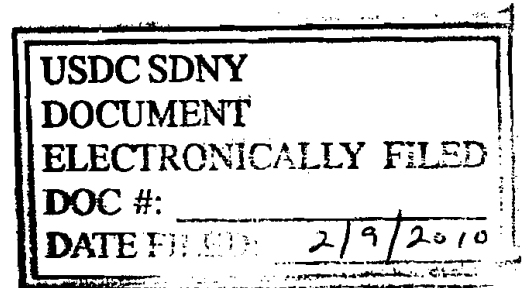
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Brodin v. Merck & Co., Inc. :
Case No. 1:07-cv-03466-JFK :

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Casey v. Merck & Co., Inc. :
Case No. 1:08-cv-00896-JFK :

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DeLoriea v. Merck & Co., Inc. :
Case No. 1:08-cv-09728-JFK :

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Quarles v. Merck & Co., Inc. :
Case No. 1:07-cv-11334-JFK :

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JOHN F. KEENAN, United States District Judge:

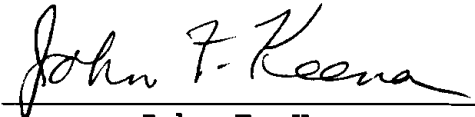


On June 23, 2009, Merck moved for summary judgment in the above-referenced matters, arguing that Plaintiffs' claims are time-barred by Virginia's two-year statute of limitations on personal injury claims, Va. Code Ann. § 8.01-243(A). The Court requests additional briefing on whether that limitations period applies to the loss of consortium claims in the Casey and Quarles actions, and if so, whether those claims are time-barred. The parties should also address whether Virginia law recognizes a cause of action for loss of consortium. See Va. Code Ann. § 55-36; Wolford v. Budd Co., 149 F.R.D. 127, 132 (W.D. Va. 1993).

The submissions are limited to ten pages. Merck is to file its submission no later than February 23, 2010. Plaintiffs are to respond by March 9, 2010.

SO ORDERED.

Dated: New York, New York
February 9, 2010



John F. Keenan
United States District Judge